

UNITED STATES DISTRICT COURT MAR 17 2020

for the
SOUTHERN District of TEXAS
GALVESTON Division

David J. Bradley, Clerk of Court

JOSEPH STEPHEN Bott

Case No.

4:20-cv-999

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

HARRIS COUNTY JAIL
GALVESTON COUNTY JAIL
CATHY WHITE

DR. KILLYON *Defendant(s)*

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

JOSEPH STEPHEN BottAll other names by which
you have been known:344597

ID Number

GALVESTON COUNTY JAIL

Current Institution

5700 AVE H

Address

GALVESTON

City

TX

State

77551-8100

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Harris County JailJob or Title (*if known*)

Shield Number

Employer

Address

701 San Jacinto St.Houston

City

TX

State

Zip Code

 Individual capacity Official capacity

Defendant No. 2

Name

GALVESTON COUNTY JAILJob or Title (*if known*)

Shield Number

Employer

Address

5700 AVE HGALVESTON

City

TX

State

77551-8100

Zip Code

 Individual capacity Official capacity

Defendant No. 3

Name

Cathy White

Job or Title (if known)

Director

Shield Number

Employer

Galveston County Jail

Address

5700 Ave

Galveston

City

TX

77551-8107

State

Zip Code

 Individual capacity Official capacity

Defendant No. 4

Name

D.P. Kuyon

Galveston Director

Job or Title (if known)

Shield Number

Employer

Galveston County Jail / Sheriff

Address

5700 Ave H

Galveston

City

TX

77551-8100

State

Zip Code

 Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

8th Amendment of U.S. Constitution

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

N/A

D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

N/A

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

See attached Statement

I was incarcerated at Harris County Jail in Houston, Texas in September 2017 till August 24, 2018. I was on my way to court and the guards were moving us along pretty quick and the floors were wet and I slipped and went down, when I slipped I felt a sharp pain at once but there was nothing I could do at the time. Then latter that night I had some lower abdominal pain so I put in a I-60 to see medical. I saw the Doctor 2 days latter and the Doctor at Harris County said that I ripped my stomach lining and had a hernia that was in the begining of August 2018. The Doctor put me on I B 800s for pain, my case was dismissed and I was released on August 24th 2018. At that time I was working for Apex Case work building and installing Commerical Cabinet while I was working on Dec. 28th 2018 I was putting up cabinets and it popped again my hernia I got the 1st Doctor's appt. I could the beggining of January 2019. I saw Dr. Doan in Passadina, Texas and he told me I would need surgery but at the time I could not afford it so I called my Parole officer and he gave me the information for Galveston County Indigent program in LaMark Texas. That was in March of 2019. I was let go from Apex Case work because I was unable to proform my Job. I was getting 1699 so I was not insured that's why I went through the Indigent program and it takes 6 to 8 months to get approved. I was awaiting for everything to get approved and got pulled over for a driving infraction. When I got to Galveston County Jail in September 15th 2019 I told them I had a hernia and they gave me 400mg I B 2 times a day that was it. Then I ~~kept~~ put in I-60 after I-60 to see the Doctor because of the pain I was in it was in December 2019 when they ~~finally~~ gave me a hernia belt but it did no good because the hole was to large to hold the Hernia in. The Doctor in Galveston Jail told me and I quote By NO means me. Both By no means will you be getting a Surgery here at Galveston County unless you are lying on the floor dying" ~~NO~~ quote. After that I wrote a regular Grievance and A medical Grievance then after that I wrote A letter to the Congressman and to the D.O. D.R.I.I. It was

about 3 weeks later when they called me back to medical and I saw Cathy White and Dr. Killian and Cathy White wanted to know why I was causing trouble for them and I said that they were violating my rights and they were not doing anything for my problem knowing that I was in terrible pain day in and day out. As many times I was at medical share at Galveston County. After Cathy White left the DR's office the DR. told me he was going to see what he could do about getting me scheduled for surgery. Then 2 days latter he brought me back and told me I wasn't going to get a surgery any time soon because they knew my case was about over. And now I put in I-60s and they won't even see me.

C. What date and approximate time did the events giving rise to your claim(s) occur?

it was in Harris County Jail August 2017 at between 7-8 PM, going to court

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I slipped on the floor on my way to court at 2 other men helped me up when I slipped they were both inmates also

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I sustained Heital Hernia, the Doctor put me on 800 mg IB at the Jail, I needed surgery and never got it.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

A Hernia Surgery and \$1,000,000.00

Pain and suffering and lost wage's, stress, anxiety, unlawful incartion I pray for imediit adjunctive Relife

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes

No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

HARRIS COUNTY JAIL, TEXAS

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes

No

Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes

No

Do not know

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

E. If you did file a grievance:

1. Where did you file the grievance?

GALVESTON COUNTY JAIL, TEXAS

2. What did you claim in your grievance?

GALVESTON COUNTY JAIL, TEXAS

3. What was the result, if any?

DENIED ANY HELP/ASSISTANCE.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

MULTI-RE APPLICATIONS FOR MEDICAL TREATMENT
~~RE~~ WROTE TO ACLU OF TEXAS, PO BOX 8306, HOUSTON
WROTE CONGRESSMAN OF THIS DISTRICT.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

Yes

No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition.

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

N8

Yes

No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 3-10-20

Signature of Plaintiff

X Jerald S. Bao

Printed Name of Plaintiff

344597

Prison Identification #

5700 AVE H

Prison Address

GALVESTON

City

TX

77551-8108

State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

